

PARKER, HUDSON, RAINER & DOBBS

ATTORNEYS AT LAW

1200 CARNEGIE BUILDING

133 CARNEGIE WAY

ATLANTA, GEORGIA 30303

(404) 523-5300

TELECOPIER

(404) 522-8409

THE PERKINS HOUSE

SUITE 101

118 NORTH GADSDEN STREET
TALLAHASSEE, FLORIDA 32301

TELECOPIER

(904) 681-9493

TELEPHONE

(904) 681-0191

RECORDATION NO. **16639** FILED 1425

December 1, 1989

DEC 6 1989 -12 05 PM
INTERSTATE COMMERCE COMMISSION

VIA FEDERAL EXPRESS

Interstate Commerce Commission
Office of the Secretary
Application and Fees Unit
12th Street and Constitution Avenue, N.W.
Room 2303
Washington, D.C. 20423
Attention: Ms. Mildred Lee

Re: AmSave Credit Corporation -- Hargis Leasing, Inc.

Dear Ms. Lee:

Our firm represents AmSave Credit Corporation ("AmSave"), a New York corporation, which has made available to Hargis Leasing, Inc. ("Hargis Leasing") certain financial accommodations. In connection with the financial transactions between Hargis Leasing and AmSave, we have enclosed herewith for filing and recording pursuant to 11303 of Title 49 of the U.S. Code one (1) original and one certified, true copy of a primary document (not previously recorded) entitled Railcar Leasing Agreement, dated as of July 24, 1989 between Hargis Leasing, Inc. and The Georgia Marble Co. (the "Lease").

The names and addresses of the parties to the enclosed Lease are as follows:

The Georgia Marble Co.
1201 Roberts Boulevard
Building 100
Kennesaw, Georgia 30144

Hargis Leasing, Inc.
200 Tremon Street
Gordon, Georgia 31031

Interstate Commerce Commission
December 1, 1989
Page 2

The Lease covers six 14,000 gallon kaolin slurry tank cars having the following identification numbers:

Harx 0150
Harx 0151
Harx 0152
Harx 0153
Harx 0154
Harx 0155

W purvey #5
see doc
should be.
HARX 1050-1055

We ask that a short summary of the Lease appear in the ICC index as follows: lease of 6 tank cars HARX0150 through HARX 0155.

Enclosed is a check in the amount of \$15.00 in payment of the filing fees. Once the filing has been made, please return to the undersigned the original Lease, together with the fee receipt, the letter from ICC acknowledging the filing and the two extra copies of this transmittal letter.

Sincerely,



Leigh L. Puryear
Attorney for AmSave Credit
Corporation

LLP/mjg
Enclosures
cc: Mr. Harold Combs
3704L

130.00

PARKER, HUDSON, RAINER & DOBBS

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TELEPHONE

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TELECOPIER
(404) 522-8409

December 5, 1989

VIA FEDERAL EXPRESS

9-340A004

Interstate Commerce Commission
Office of the Secretary
Application and Fees Unit
12th Street and Constitution Avenue, N.W.
Room 2303
Washington, D.C. 20423
Attention: Ms. Mildred Lee

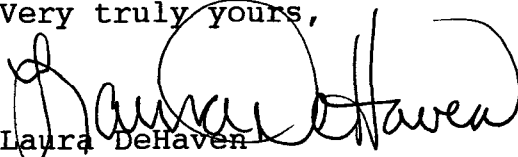
Re: AmSave Credit Corporation -- Hargis Leasing, Inc.

Dear Ms. Lee:

Enclosed please find our firm's check in the amount of \$30.00 in payment for filing fees of an original Financing and Security Agreement, dated November 22, 1989 between Hargis Leasing, Inc. and AmSave Credit Corporation and an original Leasing Agreement, dated July 24, 1989 between Hargis Leasing, Inc. and The Georgia Marble Co. Please note attached copies of the original letters sent to your attention dated December 1, 1989 regarding the documents being recorded.

This is thanking you in advance for your assistance in this matter. Please call if there are any questions concerning the enclosed.

Very truly yours,


Laura DeHaven
Legal Assistant

Enclosures

cc: Leigh L. Puryear, Esq.

5189L\lad

DEC 11 1989
11 11 11

Interstate Commerce Commission
Washington, D.C. 20423

12/11/89

OFFICE OF THE SECRETARY

Leigh L. Puryear
Parker Hudson Rainer & Dobbs
1200 Carnegie Building
133 Carnegie Way
Atlanta, Georgia 30303

Dear Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 12/6/89 at 12:05pm and assigned recordation number(s). 16639 & 16640

Sincerely yours,

Noreta R. McGee

Noreta R. McGee
Secretary

Enclosure(s)

*Enclosed you will find two
unsigned Checks to take the place
of the signed checks you sent in
Thank you
Noreta R. McGee*

HARGIS LEASING, INC.

RAILCAR LEASING AGREEMENT

890_ - 89

16639
RECORDED TO FILED

DEC 6 1989 -12 05 PM

INTERNATIONAL COMMERCE COMMISSION

THIS AGREEMENT, dated as of the 24th day of July, 1989, by and between HARGIS LEASING, INC., a Georgia corporation (herein called "HLI"), and The Georgia Marble Co. a Georgia Corp. (hereinafter called "Lessee");.

W I T N E S S E T H :

1) HLI agrees to furnish and lease to Lessee, and Lessee agrees to accept and use upon the terms and conditions herein set forth, the cars covered by the Riders attached hereto and such additional terms and conditions herein set forth, the cars covered by the riders attached hereto and such additional Riders as may be added hereto from time to time by agreement of the parties, and any and all other cars delivered to and accepted by Lessee. Each such Rider shall set forth the number of cars, the rental rate, the specific commodity to be carried therein or thereon, the rental rate, term of use, and other pertinent information that may be desired by both parties. All cars leased pursuant to such Riders, or otherwise delivered to and accepted by Lessee, are subject to the terms of this Agreement.

2) DELIVERY OF CARS. HLI agrees to deliver each car to Lessee, freight charges collect, in the yard of the delivering line at the point designated by Lessee, and Lessee agrees to accept such delivery of the cars (and to pay the rental rate hereof as provided in each Rider from the date of delivery of cars), at the point specified until the cars are returned at the termination of the Rider to HLI at said point or other points mutually agreed upon. HLI's obligation as to deliveries hereunder is subject to delays due to labor difficulties, fire, delays of carriers, and materialmen or other like or unlike contingencies beyond the reasonable control of HLI.

3) PAYMENT OF RENTAL CHARGES. Lessee agrees to pay to HLI for the use of each car the monthly rental set forth in the Rider applicable to such car from the date such car is delivered to Lessee, until such car is returned to HLI as hereinafter provided in Paragraph 17 except for the provisions of Paragraph 5. Said monthly rental shall be paid to HLI's designated address: HARGIS LEASING, INC., P. O. BOX 130, GORDON, GA 31031, in advance of the first day of delivery of each month during the rental term, except that Lessee shall

HARGIS LEASING, INC.
RAILCAR LEASING AGREEMENT
Page 2

pay at the time of delivery of each car a pro rata of one month's rent for the period intervening the date of delivery and the first of the next succeeding month.

4) TERM OF AGREEMENT. This agreement shall be effective as of the date first set forth above, and as to each car, shall expire upon the expiration of the rental term set forth in the Rider applicable to such car, except as provided in Paragraphs 16 and 23.

5) HLI AGREES TO KEEP RECORDS pertaining to the movement of the cars, and Lessee agrees to promptly furnish HLI with complete reports of the car movements, including dates received, loaded and shipped, commodity, destination, and full junction routing, and all information which Lessee may receive from railroad companies or other sources which may be of use to HLI. HLI shall collect the mileage earned by the cars, and subject to all rules of the tariffs of the railroads, HLI shall credit to Lessee's rental account such mileage as and when received from the railroads, but in no event shall the aggregate amount of mileage to Lessee's account with respect to any calendar year during the terms of this Agreement exceed the aggregate of all rentals paid by Lessee from inception of this car leasing contract, including all additional rentals as set forth in Paragraph 25 of this Agreement. Mileage earnings for all cars leased pursuant to this Agreement shall be carried in a consolidated account. This account will be required to maintain a one month payment balance and will not be reduced below this level to accord any contingency.

6) LESSEE AGREES TO REIMBURSE HLI for any payment HLI may be required to make to any railroad, due to mileage equalization where applicable, resulting from excess empty mileage incurred by the cars on such railroad. For the purpose of this section, the railroad mileage and junction reports shall be prima facie evidence of the facts reported therein. In addition, if HLI is required to make any payments to a railroad resulting from the empty movement of any of the cars while they are in Lessee's service, Lessee agrees to reimburse HLI for such payments.

7) DAMAGE TO CAR AND ASSIGNMENT. Lessee will indemnify HLI against loss or damage caused during the term of this lease to or by any of the cars hereby leased, or to or by the contents thereof, howsoever occurring* and arising out of any default by Lessee hereunder. ** Lessee will not permit or suffer any encumbrances or liens to be entered or levied upon the cars, or any of them.

HARGIS LEASING, INC.
RAILCAR LEASING AGREEMENT
Page 3

* except as due to HLI's negligence

** except loss or damage for which one or more railroads has assumed full responsibility

8) IN THE EVENT any car is totally damaged or destroyed, the rental with respect to such car shall terminate upon receipt by HLI of notification thereof; and in the event any car is reported to be bad ordered and HLI elects to permanently remove such car from Lessee's service, rather than have such car taken to a car shop for repairs, the rental with respect to such car shall terminate upon receipt by HLI of notification that such car was bad ordered. HLI shall have the right, but shall not be obligated, to substitute for any such car another car of the same type and capacity, and the rental in respect to such substituted car shall commence upon delivery of such substituted car to Lessee.

9) IN THE EVENT that any of the cars, or the fittings, appliances or appurtenances thereto, shall be damaged, ordinary wear and tear excepted, or destroyed, whether as a result of the acts of any of Lessee's employees, agents, or customers, or from any commodity or other material loaded therein or thereon, Lessee agrees to assume financial responsibility for such damage or destruction.

10) LESSEE, AT ITS OWN EXPENSE, shall either replace or reimburse HLI for the cost of replacing any appliance or removeable part, if destroyed, damaged, lost, removed or stolen, unless the railroads transporting the cars have assumed full responsibility for such loss or damages, or unless such loss or damage results from the negligence or omission of HLI, its agents or employees.

11) LESSEE AGREES TO INDEMNIFY and hold HLI harmless from and against any loss, liability, claim, damage, or expense (including, unless Lessee assumes the defense, the reasonable cost of investigating and defending against any claims for damages) arising out of or in connection with the use of the cars during the term of this Agreement, excepting, however, any loss, liability, claim, damage, or expense which accrues with respect to any of the cars (i) while such car is in a repair shop undergoing repairs; (ii) which is attributable to the negligence or omission of HLI, its agents or employees; or (iii) for which a railroad or railroads have assumed full responsibility, including investigating and defending against any claim for damages.

HARGIS LEASING, INC.
RAILCAR LEASING AGREEMENT
Page 4

12) NO LETTERING or marking of any kind shall be placed upon any of the cars by Lessee except with the prior written consent of HLI.

13) LESSEE AGREES NOT TO LOAD any of the cars in excess of the load limit stenciled thereon.

14) LESSEE SHALL BE LIABLE for any demurrage, track storage, or detention charge imposed in connection with any of the cars, as well as loss of or damage to any car while on any private siding or track, or on any private or industrial railroad or in the custody of any carrier not subject to the Association of American Railroads Rules for Interchange.

15) LESSEE SHALL MAKE NO TRANSFER or assignment of its interest under this Agreement in and to the cars without HLI's prior written consent, except that Lessee may sublease any of the cars to its customers for single trips consistent with its normal merchandising methods; provided, however, that notwithstanding any such sublease, Lesseeshall continue to remain liable to HLI under all conditions and terms of this Agreement. No right, title or interest in any of the cars shall vest in Lessee by reason of this Agreement or by reason of the delivery to or use by Lessee of the cars, except the right to use the cars in accordance with the terms of this agreement.

16) IF LESSEE SHALL FAIL to perform any of its obligations hereunder, HLI, at its election, may either (a) terminate this Agreement immediately and repossess the cars, or (b) withdraw the cars from the service of Lessee and deliver the same, or any thereof, to others upon such terms as HLI may see fit. If HLI shall elect to proceed in accordance with clause (b) above, and if HLI during the balance of the term of this Agreement shall fail to collect for the use of the cars a sum at least equal to all unpaid rentals hereunder to the stated date of termination hereof plus an amount equal to all expenses of withdrawing the cars from the service of Lessee and collecting the earnings thereof, Lessee agrees to pay from time to time upon demand by HLI the amount of any such deficiency. It is expressly understood that HLI at its option may terminate this Agreement in the event that a petition in bankruptcy or a petition for a trustee or receiver be filed by or against Lessee or in the event that Lessee shall make an assignment for creditors.

17) UPON THE TERMINATION of each Rider, Lessee agrees, to return the cars to HLI by a forwarding railroad to a point or points designated by HLI, in the same or as good condition

HARGIS LEASING, INC.
RAILCAR LEASING AGREEMENT
Page 5

as received, ordinary wear and tear excepted, free from all charges and liens which may result from any act or default of Lessee, and free from all accumulations or deposits from commodities transported in or on the cars while in the service of Lessee. If any car is not returned to HLI free from such accumulations or deposits, Lessee shall reimburse HLI for any expense incurred in cleaning such car.

18) TAXES. HLI AGREES TO ASSUME responsibility for and to pay all property taxes levied upon the cars and to file all property tax reports relating thereto. Lessee agrees to assume responsibility for and to pay any applicable state sales, use or similar taxes resulting from the lease or use of the cars. Lessee agrees to assume cost of duty, sales, and all other taxes incidental to exportation of the cars out of, or operation thereof, outside of the Continental United States.

19) UNIT TRAIN MOVEMENT. No car shall be utilized in Unit Train service, nor shall ANY car be transported or moved more than Forty Thousand (40,000) miles during any year of this lease, computed from anniversary date to anniversary date, unless consented to in writing by HLI in advance of such use. If any car is determined to have been transported or moved in excess of Forty Thousand (40,000) miles during such year, Lessee agrees to pay HLI as additional rent for such car, the sum of \$.018 per mile for each mile in excess of Forty Thousand (40,000) miles, but less than Eighty Thousand (80,000) miles, and the sum of \$.03 per mile for each mile in excess of Eighty Thousand (80,000) miles. The determination of the total number of miles for each car per year shall be made by multiplying the total number of loaded miles for such car in such year by Two (2), unless Lessee has in its possession information sufficient to disclose to its satisfaction the exact mileage for such car for such year.

20) IT IS UNDERSTOOD that some of the cars furnished Lessee under this Agreement, and HLI's rights under this Agreement, may at the time of delivery to Lessee, or at some future time during the term of this Agreement, be subject to the terms of a Mortgage, Deed of Trust, Equipment Trust, Pledge, or Assignment, or similar security arrangement. Lessee agrees that the cars may be stenciled or marked to set forth the ownership of any such cars in the name of a mortgagee, trustee, pledgee, assignee, or security holder, and that this Agreement and Lessee's rights hereunder are and shall at all times be subject and subordinated to any and all rights of any mortgagee, trustee, pledgee, assignee, or security holder. As to the cars subject hereto, this Agreement and the rentals hereunder may have been assigned,

HARGIS LEASING, INC.
RAILCAR LEASING AGREEMENT
Page 6

and may in the future be assigned, to the holder, if any, of the superior lien from time to time on each car as determined with reference to the filings with the Interstate Commerce Commission; however, until notified to the contrary by any person reasonably proving to Lessee's satisfaction that he is the assignee of the Agreement or the rentals hereunder, Lessee is to pay all rentals to the order of HLI. Lessee hereby consents to and accepts such assignments. Lessee agrees that no claim or defense which Lessee may have against HLI shall be asserted or enforced against any assignee of this Agreement.

21) IN THE EVENT the U.S. Department of Transportation, or any other governmental agency or non-governmental organization having jurisdiction over the operation, safety, or use of railroad equipment, requires that HLI add, modify, or in any manner adjust the cars subject to this Agreement in order to qualify them for operation in railroad interchange, Lessee agrees to pay an additional monthly charge of \$1.50 per car for each \$100 expended by HLI on such car, or such other monthly charge in lieu thereof, as may be provided for Modifications in any rider hereto, in any case effective as of the date of the car is released from the shop after application of such additions, Modifications, or adjustments (hereinafter the "Modifications.") No rental credits will be issued on cars entering shop for any Modifications for the first thirty days. In the event HLI in its sole discretion determines prior to making any Modifications that the cost thereof is not economical to expend in view of the estimated remaining useful life of such car, and HLI elects to permanently remove such car from Lessee's service rather than have such car taken to a car shop for such Modifications, the rental with respect to such car shall terminate upon the date specified in writing by HLI, provided that such date must be prior to the date the modification is so required to be made.

22) THIS AGREEMENT SHALL BE BINDING upon the parties hereto, their respective successors, assigns, and legal representatives, and shall remain in full force and effect from the date hereof until the completion of the leasing arrangement shown on attached Riders of the last car or cars hereunder, and all such cars are returned to HLI.

23) IT IS UNDERSTOOD that HLI shall have the right, but shall not be obligated, under this Agreement and the Riders attached hereto, to substitute for any car another car of the same type and capacity without the prior consent of Lessee, and the rental with respect to the substituted car shall commence upon delivery of such substituted car to Lessee.

HARGIS LEASING, INC.
RAILCAR LEASING AGREEMENT
Page 7

24) CONTINUANCE. In the event that Lessee continues to use any car after the expiration of the term of any Rider, or does not return such car to HLI, as required by this Agreement, on or before the expiration of the term of said Rider, all the terms and conditions of this Agreement, except in respect to expiration of the term thereof, shall continue to apply. In such event, Lessee will give HLI sixty (60) days' written notice of its intention to keep the car beyond the terms of the original lease at a rate to be determined by HLI at the time of notification. The foregoing will not affect HLI's right to return of the cars at any time after such expiration.

25) ADDITIONAL RENTAL. In addition to the monthly car rental charges specified in all Riders presently in effect under this Agreement (the "Current Riders"), all costs and expenses relating to the delivery, use, operation, and release of the cars included in the Current Riders, which by the terms of this Agreement and the Current Riders are to be assumed and discharged by Lessee, shall be deemed to be additional rental for all purposes of this Agreement and the Current Riders to the extent such costs and expenses shall be paid for by HLI or are incurred for HLI's account. Without limiting the generality of the foregoing provision, it is understood and agreed that such costs and expenses to be so considered as additional rental hereunder shall include, inter alia, the following:

a) HLI's charges for various ancillary services which may be provided by HLI at Lessee's request and which HLI shall not otherwise be obligated to provide under this Agreement;

b) Mileage equalization charges imposed upon HLI by any railroad and for which Lessee shall be responsible in accordance with the provisions of Paragraph 6 of this Agreement;

14 *dash*
c) All demurrage, track storage, detention and switching charges to be paid by Lessee under the provisions of Paragraph 13 of this Agreement, and the operating costs referred to in said Agreement;

d) HLI's charges for the loss or repair of any car or components thereof lost or damaged due to the negligence of Lessee or its subleasee, consignee or consignor under the provisions of Paragraph 7, 9, and 10 of this Agreement;

HARGIS LEASING, INC.
RAILCAR LEASING AGREEMENT
Page 8

Sub
e) Sales and use taxes under the provisions of Paragraph 17 of this Agreement;

18
f) The cost of linings and/or coatings under the provisions of applicable Riders and all other costs imposed upon Lessee under any one or more of the Current Riders;

g) Freight costs incurred upon the initial delivery of new cars to Lessee from HLI's plant.

26) PAYMENT. Lessee by this document also agrees to pay in a timely manner all valid invoices rendered against it by HLI, ELITE COATINGS COMPANY, INC. and HARGIS RAILCAR, INC. The timely manner shall in no case exceeds sixty (60) days.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement in two counterparts (each of which shall be deemed an original) the day and year first above written.

HARGIS LEASING, INC.

By: Gary W. Hargis
President

[SEAL]

Attest: Pat Kuntz
Secretary

LESSEE

By: John W. Clark
Vice President

[SEAL]

Attest: Spradine J. Stantz
Secretary

STATE OF GEORGIA

COUNTY OF

Cobb

On this 27th day of November, 1989, before me, personally appeared John W. Cline, to me personally known, who being by me duly sworn, says that he is the Vice President of The Georgia Marble Company, that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that the instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was a free act and deed of said corporation.

Carole M. Dimmett

Notary Public

My Commission Expires:

[NOTARIAL SEAL]

Carole M. Dimmett
Notary Public, Cobb County, Georgia
My Commission Expires May 18, 1992.

STATE OF GEORGIA

COUNTY OF FULTON

On this 22nd day of November, 1989, before me, personally appeared Gary W. Hargis, to me personally known, who being by me duly sworn, says that he is the President of Hargis Leasing, Inc., that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that the instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was a free act and deed of said corporation.

Dawn D. Hargis

Notary Public

My Commission Expires:

[NOTARIAL SEAL]

Notary Public, Fulton County, Georgia
My Commission Expires Feb. 26, 1993

ANNEX A

CERTIFICATE OF ACCEPTANCE

The undersigned, a duly authorized representative of Georgia Marble Co., (the "Lessee"), does hereby certify that he has caused to be inspected and, on the date set out below, has accepted on behalf of the Lessee the following described Units of equipment, which Units are in good order, condition and repair (except for latent defects) and conform in all respects to the terms, provisions, requirements and standards of the certain Car Leasing Agreement, dated as of July 24, 1989, between HARGIS LEASING, INC. and the Lessee.

Identification Number: HARX 1050 - HARX 1055

Type Car: 14,500 gallon Kaolin Slurry Car

Date Accepted: July 24, 1989

Authorized Representative

ANNEX B

LATE CHARGES. Delinquent installments of rent shall bear interest at the rate of 1-1/2% per month if not prohibited by law; otherwise at the highest lawful contract rate.

RIDER NO. 1 TO RAILCAR LEASING AGREEMENT

890 - 89, DATED July 24, 1989

A. Description of Leased Cars

<u>Type Car</u>	<u>Authorized Commodity</u>	<u>Identification Number</u>
1. Tank	Clay Slurry	HARX 1050
2. Tank	Clay Slurry	HARX 1051
3. Tank	Clay Slurry	HARX 1052
4. Tank	Clay Slurry	HARX 1053
5. Tank	Clay Slurry	HARX 1054
6. Tank	Clay Slurry	HARX 1055

Lease Rate	\$623.00
Maintenance	<u>65.00</u>
Total	\$688.00

B. Rental Rate: \$688.00 per car per month.

C. Term: From July 24, 1989 through July 24, 1994.

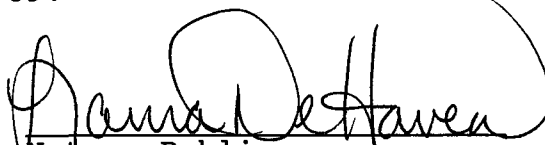
STATE OF GEORGIA
COUNTY OF FULTON

16639
RECORDATION NO. FILED 1423
DEC 6 1989 - 12 05 PM
INTERSTATE COMMERCE COMMISSION

CERTIFICATE OF TRUE COPY

The undersigned, Laura Deltaven, being a Notary Public of the State and County aforesaid, has examined the original Rail Car Leasing Agreement, 890-89, dated as of July 24, 1989, between Hargis Leasing, Inc. and the Georgia Marble Co. (the "Lease") and the copy of the Lease attached hereto, and the undersigned has found the copy attached hereto to be complete and identical in all respects to the original Lease.

IN WITNESS WHEREOF, the undersigned has hereto affixed her signature, this 22nd day of November, 1989.


Notary Public

My Commission Expires:

Notary Public, Fulton County, Georgia
My Commission Expires Feb. 26, 1993

[NOTARIAL SEAL]

LLP/1861D